File no - 346-11

S. No - 7

G. R. S. 58]

Previous references.

Ch 295-08 1-4 B
Ch 134-06 14, 15, & 16, 17 1911
Leg 16-10.8-11 (Courts)

~~*Later references.*~~
Leg 16-10. 27, 29, 30, 31
Ch 134-06. 1-13

File No. 346-11

Serial Nos. X

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Nil

Part B for April 13

SUBJECT.

Notes regarding the necessity for consulting the Final depot in the matter of payment of fees to legal practitioners.

GPB—5,000—22-10-10

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

H D 4332

Please send with the
Connected file
D.M.2 47 (Wn 09)
21-5-12
25

To Br. III

File put up.
SA
27/5 1/2 SMCW
27/5

Br. II
Secy

Branch: II was not consulted.
A higher fee than that allowed
under the standing order is sanctioned.
Whether the order has to be communicated
to the Comptroller thro: the H.C. Rly
is a point for orders.
D.M.2 47 (Wn 09)
27-5-12

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—85,000—21-4-09

Serial No.

4 This is a case in which the Govt. Advocate has been paid higher fees than is allowed under the rules for appearance in certain cases. Br II was not consulted and the reason for the higher rates is not stated. Rd Pr. 1 & C^r is of opinion that the claim is somewhat higher than it need be but as he has no objection it will be passed. I am sorry to note that it is less than the amount of the claim which is Rs 35 8- 5- 4. but that is sometimes in nearly 200 cases in 35 8- 5- 4.

5 The following points are worthy of notice.

1) In the first case it is to be noted that para 6 and P. 3 he says that but at request the Govt advocate appeared to oppose the Bail application. This was not necessary and was entered to Rs 20, the case it claim [illegible]

But 2 Lawcals added that the Sh. Govt Pleader might have instructed him. Govt was not instructing the Govt Advocate in the case

NOTE—Contn. sheet.

15

Serial No.

This procedure is against the standing orders and must be discontinued. In all cases requiring concurrence of the Fin. Branch orders should not be issued until that concurrence is received. Very awkward situations have arisen sometimes owing to the non-observance of the proper procedure and orders issued by the Administrative Branches had to be modified. All Branch officers will please note this for future guidance.

GR

4/6/12

Send copy to all Branches.

attended to (Vide No. Fl 5387 dt: 14/6/12)

Where opinion is not taken or if taken is disregarded, under the rules the Fin. Branch is entitled to a say in the matter and it may happen that the order is revised or modified owing to the representation of the Fin. Branch. In such cases it will be seen that the last very awkward for Govt to cancel or modify an order already issued.

It would be better if in such cases i.e. where Fin. opinion is not taken or if taken is not followed the order is not communicated to the Departments concerned until the Fin. Branch gives its concurrence thereto.

16. The present case is one of this kind.

12

16

16

I am respectfully of opinion that the payt of double fee in the appeal cases is objectionable and is likely

GPB—50,000—12-8-10

Serial No.

to create a very embarrassing precedent. The rates must have been fixed on a consideration of the average amount of work involved in a case. For specially light cases the Govt Advocate does not reduce fees. For example in the nine legal cases all disposed of on the 29th Nov. 1911, he has charged the full fee admissible under the rules for each of the nine cases, though the eight cases after the first may have involved very little work. When a rate is fixed on average considerations it is unfair to demand special consideration for cases of any kind.

M
6/6

Bor (11)

Sent.

SW(11)
19/6/12

I do not know how this case is regarded as one in which the Financial Branch should have been consulted. The Govt Advocate presented his bill countersigned by the presiding judge (Mr Plowden, Sessions Judge of Myitkyina)

Please see para 16 of the rules (Mag V.)

NOTE—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191

Serial No.

and ordinarily this may itself be taken as strong proof that the fee claimed by in the bill was not excessive having regard to the labour involved in the case. Under the G.O. of 16th March 1904, the Govt Advocate is entitled to fees under according to a prescribed scale but Govt may sanction a larger fee if it is satisfied of the Exceptional importance and difficulty of the Scale". I take the Sandalwood Cases of the Hassan Dt were of this kind will not probably be disputed. In any case it is somewhat difficult to see how in deciding this question any question of application of financial rules or procedure arises. Suppose a private lawyer had been engaged in the case would not the Govt have been at liberty to fix the fee payable to him by negotiation? Would it be necessary to consult the Financial Branch in such a case?

V.

16

Please see 2nd cr's (paras 9 in the plebiscite) note. It was at his instance (para 24) that the Govt sanctioned the engagement of the Govt Advocate

17 So far as I am aware this

21

~~If Counsel fee with the~~ perhaps It may be taken for granted that the general rule of the necessity of economy in all matters involving expenditure will always be borne in mind.

NOTE—Contn. sheet.

General and Revenue Secretariat. | File No. | of 191

Serial No.

is the first Case in which an objection of this kind has been raised.

2/ As regards the bail application referred to by the Fin'l Sec'y, it may perhaps be submitted, with all respect, that the Govt Advocate's labours in the Case should not be judged entirely by the nature of the work he had to do in the Court on the day of hearing. My Govt Advocate is not a whole time Servant of the Govt and if he has to go to Mysore it must be at some sacrifice of his private work and he appears therefore to be entitled to claim what after all the Govt have recognised to be the proper fee payable to him for a day's attendance. [Please see para 7 (3) of the rules of 16th March 1904]

Further note

P.T.O.

17/6/12

Lee)

* though in this Case there is no reason to think that he had any light work to do.

V.

NOTE—Contn. sheet.

GPB—20,000—20-1-12

Serial No.

Z

22) only recently (file no 16-10) a higher fee than what is prescribed by para 7 of the order of 16th March 1904 was passed in favour of the Govt Advocate for having conducted the Kolar Gold Case before the Special Magte, on the ground that the case was one of special importance and difficulty. No objection was raised by the Complts in that case.

Y.
W

23) Attention may perhaps be also invited to files Nos 134-06 and 295-08 below in which fees fixed by Negotiation have been paid to private lawyers for having advised & appeared on behalf of Govt. In the former case Mr Sankaran Nair was paid Rs 1000/- and in two cases Mr Srinivasa Iyer was paid Rs 360/- and 250/- respy. Objection was not raised in any of these cases by the Complts.

Q 21.

* Legis 16-10 The file is in Council.

24) In fact it appears that it would not be quite accurate to describe such cases as cases of "extra or Exclusive Expenditure" para 7 of

NOTE—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191

Serial No.

V

the rules of 16th March 1904 allow Govt either to pay the Govt Advocate the lower minimum or a higher amount — only in the latter case the Govt shd be satisfied as to the "exceptional importance and difficulty of the case". As stated already, this question seems to be entirely for the Govt in the Administrative department to decide.

25 Reference may also be made to the fact that there is a definite head in the State Budget providing a certain sum every year for fees to Advocates in Civil and Criminal Cases etc.

26 I therefore respectfully submit that the procedure adopted by this Branch in the case under reference was fully covered by precedent and I venture to add that it was also in accordance with the rules

Perhaps it was an Error on the part of this Branch to have sent a copy of the G.O. to Govt. Bot II. But it may be noted that that Branch was not requested to "Confirm" the order

19/6/12

19/6/12

Sec'y

19/6/12

NOTE—Contn. sheet.

GPB—20,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat. | File No. of 191.

Serial No.

2/ I quite agree with the remarks above of the Asst Secy. The question of the order of Govt dy 16.5.12 has not yet been given effect to as it has not been confirmed by the Financial Department.

A

2ds
1st Cmr.
14/8/12

3/
15/8/12

2/ Secretary directs that the above ("A") may be verified from the Comptroller's office.

16/8/12

3/ Forwarded to the Comptroller for favour of noting whether the information at "A" is correct.

By order
S. Venugopalaiya
For Secy to Govt
Genl & Rev Depts

U.O. 910

COMPTROLLER'S OFFICE, CIVIL BRANCH, 19 AUG 1912 BANGALORE. MYSORE GOVT.

R 24

U

NOTE—Contn. sheet.

16/8/12

IGDD—20,000—20-1-12

P.T.O.

General and Revenue Secretariat. | File No. of 191

Serial No.

30

The order was given effect to and the bill received with the order was audited and returned.

I July ~~May~~ 1912
Asst Comptr.
4-7-1912

Subd

SW(II)
20/8

SH
20/8/12

31

Secy) The bill having been already audited & correct. No further orders are necessary in this case.

Secy) Returning remarks & forwards to the Financial Secy for his perusal his Asst Secretary's notes on pages 6-10 which explain his reason for his case not having been sent to the Financial Branch before the issue of orders.

This is accordingly forwarded with Compliments to the Financial

NOTE—Contn. sheet.

GPB—6[illegible],000—17-6-12.

General and Revenue Secretariat. | File No. of 191

Serial No.

Secretary for his perusal — for his remarks if any.

28/8/12

28/8/12

H. Dis 257 Subd Bbn 28/8/12 Secy)

29-8-12.

33

seen. It was certainly a case in which Fin. Branch should have been consulted — Asst. Secy for III may note this & then the matter may be dropped.

8/9/12

Br III)

Subd.

10/9/12

34 Orders are solicited for further guidance as to whether in such Cases Br II should be Consulted

17/9/12

35

Secy) I am directed to agree with his view that as Secy has

NOTE—Contn. sheet.

GPE—6,000—17-6-12.

. R. S. 12]

General and Revenue Secretariat. | File No. of 191

Serial No.

the rate of fees to be paid to Govt advocate in any case is a question to be decided by the Home Secretariat Dept and that the Financial Dept need not necessarily be consulted. The Financial Secy is however of opinion that the Fin! Dept should be consulted in such matters. As the present is one of some delicacy & doubt I submit the case for orders

19/9/12

1st Councilor

19/9/12

36

855

Subordinate authorities have power to sanction expr without sanction of Govt in many cases under General Rules. They necessarily miss the advantage of Fl Dept's criticism. Please note a few such cases below.

20/9/12

B III for note.

21/9

21/9/12

10

NOTE—Contn. sheet.

GPE—6,000—17-6-12.

15

R. S. 12]

General and Revenue Secretariat. | File No. | of 191

1914
25/4
by Fin & S&A
Messrs Mur & R&R
30/9

Serial No.

37
Branch II may perhaps be asked to note such cases.
Hg 12 Bm 12
28.9.12
To Book
30/9/12
38
Subject

Instances of items sanctioned by the administrative Depts or Heads of Depts. not falling within the purview of the powers reserved by the Financial Dept cannot be collected and compiled in this Branch.

37 Kind attention is invited to articles 203 613 & 614 of the Treasury Manual defining the powers of sanction assigned to the administrative Depts & the Financial Dept.

LD Br III may perhaps get concrete cases of sanction accorded by Heads of Depts & accepted by the Comptroller, from the Comptroller's office.

LD As regards the cases in which the other departments had failed to consult the Financial Branch as they ought to have been were reviewed in Official Memo No. 5269-74 dy 22/4/1911 dy 7456-10.

Jy/20 Opy available in Br III

NOTE—Comtn. sheet.

GPB—60,000—17-6-12.

General and Revenue Secretariat. | File No. of 191

Serial No.

25

and circulated to all the Branches of the Secretariat. This may therefore be ordered & the Subs transferred to Br. III.

No such cases are dealt with in Stat Br.

Y.36
23/11/1912

No Cases in Br. III.

for III

42

Subs. The Comptr to Govt may perhaps be consulted R.O.

The file has already gone to the Comptr's Office R.O. (Page 11 above)

28.11.12.

43

Forwarded to the Comptroller for favour of noting the information conveyed by the Councillor

B.O.

Superintendent

30/11/12

COMPTROLLER'S OFFICE, CIVIL BRANCH, 5.11.1912 BANGALORE. MYSORE GOVT.

For Secy to Govt.

65 J.R.O. 21

3/12/12

44 No 53 dt 6.12.12.

Powers of Sanctioning expenditure delegated to Subordinate authorities were given in Appendix D of the Treasury

Flag O

NOTE—Contn. sheet.

GBB—20,000—20-1-12

17

J. R. S. 12]

General and Revenue Secretariat.

No. File No. 212 of 1912

Serial No.

Manual.

(4) Attention is also invited to art 51(c) M.S.R.

Submitted for compt 5-12-12

4b

Subj. The information was called for at the instance of the 1st Councillor (Vide Para 36. above)

ACS 12/12 14/12/12

14/12/12

1/27

Seen

27/12/12

28/12

4

Other Estimates of Expr — such as Public Works Estimates, purchase of articles for Govt &c.

NOTE—Contn. sheet.

GBB—20,000—20-1-12

General and Revenue Secretariat.

(b) File No. 12 of 191 2

Serial No.

Do not go to H Dept. Why should purchase of a lawyer's service go for their opinion? Please submit to Dewan

16/1/13

896
16.1.13

Dewan 14/1 15.1.13

Submitted to His Highness.

V

48) Under the existing rules relating to the employment and remuneration of legal practitioners, the fee for each day's attendance in a Criminal Court other than the Chief Court, will be a sum not ordinarily exceeding Rs.16 for a Public Prosecutor, and Rs.25 for the Government Advocate. But power is reserved to Government to sanction a higher sum in cases of exceptional importance and difficulty. In the exercise of this power, the Government in the administrative department have from time to time sanctioned the higher rate in special cases, without reference to the Financial Branch. In the papers below, the Financial Secretary has taken objection to this procedure, and has held that in such cases the Financial Branch should be previously consulted. He observes that the rates referred to above must have been fixed on a consideration of the average amount of work involved in a case, that for specially light cases the Government Advocate does not reduce the fee, and that when a rate is fixed on average considerations, it is unfair to demand special consideration for cases of any kind.

Pages 2 – 6 and 13 of notes.

2. 49) The First Councillor observes that subordinate authorities have power to sanction expenditure without the sanction of Government in many cases and that they necessarily miss the advantage of the criticism of the Financial Department. While other estimates of expenditure such as Public Works, purchase of articles for Government, etc., do not go to Financial Department, he fails to see why the purchase of a lawyer's service should go for their opinion.

Page 14 of notes also pages 17 & 18.

3. 50) The question whether a case is of exceptional importance

importance and difficulty is a purely administrative one and it is difficult to see how the Financial Department can be expected to advise on this point. In important cases the fees will have to be settled by negotiation with the lawyers concerned and obviously in such instances the opinion of the Financial Branch will not be of much practical utility. Moreover, there are sufficient safeguards to - - check extravagant allowances in ordinary cases, and the administrative department of Government may be trusted to exercise reasonable economy in sanctioning bills of fees. For these reasons I agree with the First Councillor in - - thinking that the practice hitherto obtaining is the correct one and that it is unnecessary to consult the Financial Department in such cases.

M. Vigoureux,
1st April 1913.

(2)

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Necessity for consulting the Financial Department in regard to the employment and remuneration of legal practitioners.

No. 784

Order.

KRM
3/4/13

Secretary.
4.4.13 RG

B III
Do & Re.
(S-2) This may be also seen by B ji for perusal & further orders
(S-3) LB 5/4 Draw 5/4
5/4.

R. S. 12]

General and Revenue Secretariat.

Courts File No. 212 of 1917/A-2

Serial No.	
	To Branch II for info.
	8/4/13
	Sub
	8/4/13 Subs to Press Communication
	Thanks. seen
	12/4
	12/4/13

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

DIARY No. 4332

1911-1912
SECTION St A
SERIAL No.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read:-

Letter No.157 dated the 1st February 1912 from the Government Advocate in Mysore forwarding for sanction a bill for ----- Rs.558-5-4 being his fees for appearing and conducting Criminal appeals Nos.8 to 16 of 1911-12 before the District and Sessions Court, Mysore, in pursuance of Government Order No.J.1730-31 - Pol 126-11-4 dated 1st December 1911.

Order thereon No. J 3398-9/ES 212-11-2

Dated Bangalore. 16 May 1912.

In view of the importance of the case in which interests of Government were involved, Government are pleased as a special case to allow to the Government Advocate for having conducted the --- appeals a higher fee than that prescribed in Government Order No.1932-85-J.137-02-03 dated 16th March 1904. The bill is accordingly ~~dingly~~ sanctioned for Rs.558-5-4 and forwarded to the Comptroller for audit and adjustment.

For Offg Secretary to Govt.

To The Government Advocate.
The ~~Registrar~~, Chief Court of Mysore.
Comptroller Mysore Government.

B.K.M.

4

Copy to Branch II GRS